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8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
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11 ISAIAS HERNANDEZ, individually and  
12 no behalf of members of the general public  
13 similarly situated, and as aggrieved  
employees pursuant to the Private Attorney  
General Act ("PAGA"),

14 Plaintiff,

15 v.

16 CBC RESTAURANT CORP., a Delaware  
17 corporation, and DOES 1 through 10,  
inclusive,

18 Defendants.  
19  
20

Case No. CV 10-1056 GHK (FFMx)

**[PROPOSED] ORDER  
APPROVING STIPULATED  
PROTECTIVE ORDER**

Magistrate Judge: Frederick F. Mumm  
Courtroom: E

**NOTE CHANGES MADE BY THE COURT**

21 The parties to the above-captioned action having submitted their Stipulated  
22 Protective Order ("Order") for approval by the Court, and the Court being fully  
23 apprised of the premises, good cause appearing, the Order is hereby approved as  
24 follows.

25 1. PURPOSE AND LIMITATIONS

26 Disclosure and discovery activity in this action are likely to involve  
27 production of confidential, proprietary, or private information for which special  
28 protection from public disclosure and from use for any purpose other than

1 prosecuting this litigation would be warranted. Accordingly, the parties have  
2 stipulated to and petitioned the Court to enter the following Order. The parties  
3 acknowledge that this Order does not confer blanket protections on all disclosures  
4 or responses to discovery and that the protection it affords extends only to the  
5 limited information or items that are entitled under the applicable legal principles to  
6 treatment as confidential. The parties further acknowledge, as set forth in  
7 Section 10, below, that this Order creates no entitlement to file confidential  
8 information under seal; Civil Local Rule 79-5 sets forth the procedures that must be  
9 followed and reflects the standards that will be applied when a party seeks  
10 permission from the court to file material under seal.

## 11 2. DEFINITIONS

12 2.1 Party: any party to this action, including all of its officers, directors,  
13 employees, consultants, retained experts, and outside counsel (and their support  
14 staff).

15 2.2 Disclosure or Discovery Material: all items or information, regardless  
16 of the medium or manner generated, stored, or maintained (including, among other  
17 things, testimony, transcripts, or tangible things) that are produced or generated in  
18 disclosures or responses to discovery in this matter.

19 2.3 "Confidential" Information or Items: information (regardless of how  
20 generated, stored or maintained) or tangible things that qualify for protection under  
21 standards developed under F.R.Civ.P. 26(c).

22 2.4 "Highly Confidential - Attorneys' Eyes Only" Information or Items:  
23 extremely sensitive "Confidential Information or Items" whose disclosure to  
24 another Party or nonparty would create a substantial risk of serious injury that could  
25 not be avoided by less restrictive means.

26 2.5 Receiving Party: a Party that receives Disclosure or Discovery  
27 Material from a Producing Party.  
28

1           2.6   Producing Party: a Party or non-party that produces Disclosure or  
2   Discovery Material in this action.

3           2.7   Designating Party: a Party or non-party that designates information or  
4   items that it produces in disclosures or in responses to discovery as “Confidential”  
5   or “Highly Confidential - Attorneys’ Eyes Only.”

6           2.8   Protected Material: any Disclosure or Discovery Material that is  
7   designated as “Confidential” or as “Highly Confidential - Attorneys’ Eyes Only.”

8           2.9   Outside Counsel: attorneys who are not employees of a Party but who  
9   are retained to represent or advise a Party in this action.

10          2.10 House Counsel: attorneys who are employees of a Party.

11          2.11 Counsel (without qualifier): Outside Counsel and House Counsel (as  
12   well as their support staffs).

13          2.12 Expert: a person with specialized knowledge or experience in a matter  
14   pertinent to the litigation who has been retained by a Party or its counsel to serve as  
15   an expert witness or as a consultant in this action and who is not a past or a current  
16   employee of a Party or of a competitor of a Party and who, at the time of retention,  
17   is not anticipated to become an employee of a Party or a competitor of a Party.  
18   This definition includes a professional jury or trial consultant retained in connection  
19   with this litigation.

20          2.13 Professional Vendors: persons or entities that provide litigation  
21   support services (e.g., photocopying; videotaping; translating; preparing exhibits or  
22   demonstrations; organizing, storing, retrieving data in any form or medium; etc.)  
23   and their employees and subcontractors.

### 24   3.   SCOPE

25          The protections conferred by this Order cover not only Protected Material (as  
26   defined above), but also any information copied or extracted therefrom, as well as  
27   all copies, excerpts, summaries, or compilations thereof, ~~plus testimony~~,  
28

1 ~~conversations, or presentations by parties or counsel to or in court or in other~~  
2 ~~settings that might reveal Protected Material. (FFM)~~

3 4. DURATION

4 Even after the termination of this litigation, the confidentiality obligations  
5 imposed by this Order shall remain in effect until a Designating Party agrees  
6 otherwise in writing or a court order otherwise directs.

7 5. DESIGNATING PROTECTED MATERIAL

8 5.1 Exercise of Restraint and Care in Designating Material for Protection.

9 Each Party or non-party that designates information or items for protection under  
10 this Order must take care to limit any such designation to specific material that  
11 qualifies under the appropriate standards. A Designating Party must take care to  
12 designate for protection only those parts of material, documents, items, or oral or  
13 written communications that qualify, so that other portions of the material,  
14 documents, items, or communications for which protection is not warranted are not  
15 swept unjustifiably within the ambit of this Order.

16 Mass, indiscriminate, or routinized designations are prohibited. Designations  
17 that are shown to be clearly unjustified, or that have been made for an improper  
18 purpose (e.g., to unnecessarily encumber or retard the case development process, or  
19 to impose unnecessary expenses and burdens on other parties), expose the  
20 Designating Party to sanctions.

21 If it comes to a Party's or a non-party's attention that information or items  
22 that it designated for protection do not qualify for protection at all, or do not qualify  
23 for the level of protection initially asserted, that Party or non-party must promptly  
24 notify all other parties that it is withdrawing the mistaken designation.

25 5.2 Manner and Timing of Designations. Except as otherwise provided in  
26 this Order (see, e.g., second paragraph of section 5.2(a), below), or as otherwise  
27 stipulated or ordered, material that qualifies for protection under this Order must be  
28 clearly so designated before the material is disclosed or produced.

1 Designation in conformity with this Order requires:

2 (a) For information in document form (apart from transcripts of  
3 depositions or other pretrial or trial proceedings), that the Producing Party affix the  
4 legend "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL - ATTORNEYS'  
5 EYES ONLY" at the top of each page that contains protected material. If only a  
6 portion or portions of the material on a page qualifies for protection, the Producing  
7 Party also must clearly identify the protected portion(s) (e.g., by making  
8 appropriate markings in the margins) and must specify, for each portion, the level  
9 of protection being asserted (either "CONFIDENTIAL" or "HIGHLY  
10 CONFIDENTIAL - ATTORNEYS' EYES ONLY").

11 A Party or non-party that makes original documents or materials available for  
12 inspection need not designate them for protection until after the inspecting Party  
13 has indicated which material it would like copied and produced. During the  
14 inspection and before the designation, all of the material made available for  
15 inspection shall be deemed "HIGHLY CONFIDENTIAL - ATTORNEYS' EYES  
16 ONLY." After the inspecting Party has identified the documents it wants copied  
17 and produced, the Producing Party must determine which documents, or portions  
18 thereof, qualify for protection under this Order, and then, before producing the  
19 specified documents, the Producing Party must affix the appropriate legend  
20 ("CONFIDENTIAL" or "HIGHLY CONFIDENTIAL - ATTORNEYS' EYES  
21 ONLY") at the top of each page that contains Protected Material. If only a portion  
22 or portions of the material on a page qualifies for protection, the Producing Party  
23 also must clearly identify the protected portion(s) (e.g., by making appropriate  
24 markings in the margins) and must specify, for each portion, the level of protection  
25 being asserted (either "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL -  
26 ATTORNEYS' EYES ONLY").

27 A party may designate as "CONFIDENTIAL" or "HIGHLY  
28 CONFIDENTIAL - ATTORNEYS' EYES ONLY" documents or discovery

1 materials produced by a non-party by providing written notice to all parties of the  
 2 relevant document numbers or other identification within thirty (30) days after  
 3 receiving such documents or discovery materials.

4 (b) For testimony given in deposition or in other pretrial or trial  
 5 proceedings, (FFM) that the Party or non-party offering or sponsoring the  
 6 testimony identify on the record, before the close of the deposition, ~~hearing, or~~  
 7 ~~other proceeding, (FFM)~~ all protected testimony, and further specify any portions  
 8 of the testimony that qualify as “CONFIDENTIAL” or “HIGHLY  
 9 CONFIDENTIAL - ATTORNEYS’ EYES ONLY.” When it is impractical to  
 10 identify separately each portion of testimony that is entitled to protection, and when  
 11 it appears that substantial portions of the testimony may qualify for protection, the  
 12 Party or non-party that sponsors, offers, or gives the testimony may invoke on the  
 13 record (before the deposition or proceeding is concluded) a right to have up to 20  
 14 days to identify the specific portions of the testimony as to which protection is  
 15 sought and to specify the level of protection being asserted (“CONFIDENTIAL” or  
 16 “HIGHLY CONFIDENTIAL - ATTORNEYS’ EYES ONLY”). Only those  
 17 portions of the testimony that are appropriately designated for protection within the  
 18 20 days shall be covered by the provisions of this Order.

19 Transcript pages containing Protected Material must be separately bound by  
 20 the court reporter, who must affix to the top of each such page the legend  
 21 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL - ATTORNEYS’ EYES  
 22 ONLY,” as instructed by the Party or nonparty offering or sponsoring the witness  
 23 or presenting the testimony. The Designating Party will be responsible for any  
 24 additional costs imposed by the court reporting agency to create separately bound  
 25 confidential excerpts of deposition transcripts.

26 (c) For information produced in some form other than documentary,  
 27 and for any other tangible items, that the Producing Party affix in a prominent place  
 28 on the exterior of the container or containers in which the information or item is



1 stored the legend "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL -  
 2 ATTORNEYS' EYES ONLY." If only portions of the information or item warrant  
 3 protection, the Producing Party, to the extent practicable, shall identify the  
 4 protected portions, specifying whether they qualify as "Confidential" or as "Highly  
 5 Confidential - Attorneys' Eyes Only."

6 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent  
 7 failure to designate qualified information or items as "Confidential" or "Highly  
 8 Confidential - Attorneys' Eyes Only" does not, standing alone, waive the  
 9 Designating Party's right to secure protection under this Order for such material. If  
 10 material is appropriately designated as "Confidential" or "Highly Confidential -  
 11 Attorneys' Eyes Only" after the material was initially produced, the Receiving  
 12 Party, on timely notification of the designation, must make reasonable efforts to  
 13 assure that the material is treated in accordance with the provisions of this Order.

## 14 6. CHALLENGING CONFIDENTIALITY

15 6.1 Timing of Challenges. Unless a prompt challenge to a Designating  
 16 Party's confidentiality designation is necessary to avoid foreseeable substantial  
 17 unfairness, unnecessary economic burdens, or a later significant disruption or delay  
 18 of the litigation, a Party does not waive its right to challenge a confidentiality  
 19 designation by electing not to mount a challenge promptly after the original  
 20 designation is disclosed.

21 6.2 Meet and Confer. A Party that elects to initiate a challenge to a  
 22 Designating Party's confidentiality designation must do so in good faith and must  
 23 begin the process by conferring directly (in voice-to-voice dialogue; other forms of  
 24 communication are not sufficient) with counsel for the Designating Party. In  
 25 conferring, the challenging Party must explain the basis for its belief that the  
 26 confidentiality designation was not proper and must give the Designating Party an  
 27 opportunity to review the designated material, to reconsider the circumstances, and,  
 28 if no change in designation is offered, to explain the basis for the chosen

1 designation. A challenging Party may proceed to the next stage of the challenge  
2 process only if it has engaged in this meet and confer process first.

3       6.3 Judicial Intervention. A Party that elects to press a challenge to a  
4 confidentiality designation after considering the justification offered by the  
5 Designating Party may file and serve a motion under Civil Local Rule 7 **37 (FFM)**  
6 ~~(and in compliance with Civil Local Rule 79-5, if applicable)~~ **(including a Joint**  
7 **Stipulation) (FFM)** that identifies the challenged material and sets forth in detail  
8 the basis for the challenge. Each such motion must be accompanied by a competent  
9 declaration that affirms that the movant has complied with the meet and confer  
10 requirements imposed in the preceding paragraph and that sets forth with specificity  
11 the justification for the confidentiality designation that was given by the  
12 Designating Party in the meet and confer dialogue.

13       The burden of persuasion in any such challenge proceeding shall be on the  
14 Designating Party. Until the Court rules on the challenge, all parties shall continue  
15 to afford the material in question the level of protection to which it is entitled under  
16 the Producing Party's designation.

## 17       7. ACCESS TO AND USE OF PROTECTED MATERIAL

18       7.1 Basic Principles. A Receiving Party may use Protected Material that is  
19 disclosed or produced by another Party or by a non-party in connection with this  
20 case only for prosecuting, defending, or attempting to settle this litigation. Such  
21 Protected Material may be disclosed only to the categories of persons and under the  
22 conditions described in this Order. When the litigation has been terminated, a  
23 Receiving Party must comply with the provisions of section 11, below.

24       Protected Material must be stored and maintained by a Receiving Party at a  
25 location and in a secure manner that ensures that access is limited to the persons  
26 authorized under this Order.

27       7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless  
28 otherwise ordered by the court or permitted in writing by the Designating Party, a



1 Receiving Party may disclose any information or item designated

2 CONFIDENTIAL only to:

3 (a) the Receiving Party's Outside Counsel of record in this action,  
4 as well as employees of said Counsel to whom it is reasonably necessary to disclose  
5 the information for this litigation;

6 (b) the officers, directors, and employees (including House  
7 Counsel) and former employees of the Designating or Receiving Party to whom  
8 disclosure is reasonably necessary for this litigation and who have signed the  
9 "Agreement to Be Bound by Protective Order" (Exhibit A);

10 (c) experts (as defined in this Order) of the Receiving Party to  
11 whom disclosure is reasonably necessary for this litigation and who have signed the  
12 "Agreement to Be Bound by Protective Order" (Exhibit A);

13 (d) the Court and its personnel;

14 (e) court reporters and their staffs;

15 (f) professional vendors to whom disclosure is reasonably  
16 necessary for this litigation and who have signed the "Agreement to Be Bound by  
17 Protective Order" (Exhibit A);

18 (g) during their depositions, and during preparation for deposition  
19 or trial testimony, witnesses in the action to whom disclosure is reasonably  
20 necessary and who have signed the "Agreement to Be Bound by Protective Order"  
21 (Exhibit A). Pages of transcribed deposition testimony or exhibits to depositions  
22 that reveal Protected Material must be separately bound by the court reporter and  
23 may not be disclosed to anyone except as permitted under this Stipulated Protective  
24 Order.

25 (h) the author of the document or the original source of the  
26 information.

27 7.3 Disclosure of "HIGHLY CONFIDENTIAL - ATTORNEYS' EYES  
28 ONLY" Information or Items. Unless otherwise ordered by the Court or permitted

1 in writing by the Designating Party, a Receiving Party may disclose any  
 2 information or item designated "HIGHLY CONFIDENTIAL - ATTORNEYS'  
 3 EYES ONLY" only to:

4 (a) the Receiving Party's Outside Counsel of record in this action,  
 5 as well as employees of said Counsel to whom it is reasonably necessary to disclose  
 6 the information for this litigation;

7 (b) Experts (as defined in this Order) (1) to whom disclosure is  
 8 reasonably necessary for this litigation, and (2) who have signed the "Agreement to  
 9 Be Bound by Protective Order" (Exhibit A);

10 (c) the Court and its personnel;

11 (d) court reporters and their staffs;

12 (e) professional vendors to whom disclosure is reasonably  
 13 necessary for this litigation and who have signed the "Agreement to Be Bound by  
 14 Protective Order" (Exhibit A); and

15 (f) the author of the document or the original source of the  
 16 information.

#### 17 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED 18 IN OTHER LITIGATION

19 If a Receiving Party is served with a subpoena or an order issued in other  
 20 litigation that would compel disclosure of any information or items designated in  
 21 this action as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL -  
 22 ATTORNEYS' EYES ONLY," the Receiving Party must so notify the Designating  
 23 Party in writing (by fax, if possible) immediately, and in no event more than three  
 24 court days after receiving the subpoena or order. Such notification must include a  
 25 copy of the subpoena or court order.

26 The Receiving Party also must immediately inform in writing the Party who  
 27 caused the subpoena or order to issue in the other litigation that some or all the  
 28 material covered by the subpoena or order is the subject of this Order. In addition,

1 the Receiving Party must deliver a copy of this Order promptly to the Party in the  
2 other action that caused the subpoena or order to issue.

3 The purpose of imposing these duties is to alert the interested parties to the  
4 existence of this Order and to afford the Designating Party in this case an  
5 opportunity to try to protect its confidentiality interests in the court from which the  
6 subpoena or order issued. The Designating Party shall bear the burdens and the  
7 expenses of seeking protection in that court of its confidential material, and nothing  
8 in these provisions should be construed as authorizing or encouraging a Receiving  
9 Party in this action to disobey a lawful directive from another court.

#### 10 9. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

11 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed  
12 Protected Material to any person or in any circumstance not authorized under this  
13 Stipulated Protective Order, the Receiving Party must immediately (a) notify in  
14 writing the Designating Party of the unauthorized disclosures, (b) use its best  
15 efforts to retrieve all copies of the Protected Material, (c) inform the person or  
16 persons to whom unauthorized disclosures were made of all the terms of this Order,  
17 and (d) request such person or persons to execute the "Acknowledgment and  
18 Agreement to Be Bound" that is attached hereto as Exhibit A.

#### 19 10. FILING PROTECTED MATERIAL

20 Without written permission from the Designating Party or a court order  
21 secured after appropriate notice to all interested persons, a Party may not file in the  
22 public record in this action any Protected Material. A Party that seeks to file under  
23 seal any Protected Material must comply with Civil Local Rule 79-5. If the non-  
24 Designating Party intends to file any Protected Material with the Court, it will  
25 provide sufficient advance notice of the intended filing to the Designating Party so  
26 that the Designating Party can file a motion to file that Protected Material under  
27 seal.  
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11. FINAL DISPOSITION

Unless otherwise ordered or agreed in writing by the Producing Party, within sixty days after the final termination of this action, each Receiving Party must return all Protected Material to the Producing Party. As used in this subdivision, "all Protected Material" includes all copies, abstracts, compilations, summaries or any other form of reproducing or capturing any of the Protected Material. With permission in writing from the Designating Party, the Receiving Party may destroy some or all of the Protected Material instead of returning it. Whether the Protected Material is returned or destroyed, the Receiving Party must submit a written certification to the Producing Party (and, if not the same person or entity, to the Designating Party) by the sixty day deadline that identifies (by category, where appropriate) all the Protected Material that was returned or destroyed and that affirms that the Receiving Party has not retained any copies, abstracts, compilations, summaries or other forms of reproducing or capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all pleadings, motion papers, transcripts, legal memoranda, correspondence or attorney work product, even if such materials contain Protected Material. Any such archival copies that contain or constitute Protected Material remain subject to this Protective Order as set forth in Section 4, above.

12. MISCELLANEOUS

12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek its modification by the Court in the future.

12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order, no Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no Party waives any right to object on

1 any ground to use in evidence of any of the material covered by this Protective  
2 Order.

3 SO ORDERED.

4 Dated: October 29, 2010

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6 /S/ FREDERICK F. MUMM  
7 Honorable Frederick F. Mumm  
8 United States Magistrate Judge  
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## EXHIBIT A

**ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

I, \_\_\_\_\_, of \_\_\_\_\_, declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Central District of California on \_\_\_\_\_ in the case of *Isaias Hernandez v. CBC Restaurant Corp.* (Case No. CV10-1056 GHK (FFMx)). I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Central District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action.

I hereby appoint \_\_\_\_\_ of \_\_\_\_\_ as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Stipulated Protective Order.

Date: \_\_\_\_\_

City and State where sworn and signed: \_\_\_\_\_

Printed name: \_\_\_\_\_

Signature \_\_\_\_\_